IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 19433 of 2006(L)

O.P(M.V).NO.1136/1990 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR

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PETITIONER:

PADMINI,W/O.SUKUMARAN, RESIDING AT
THOPPIL HOUSE,NADAMA, THRIPUNITHURA,
ERNAKULAM DISTRICT.

BY ADV. SRI.V.CHITAMBARESH,
SRI.T.C.SURESH MENON,
SRI.SREEKANTH.K.R,
SRI.JIBU P THOMAS,
SRI.SUNIL J.CHAKKALACKAL.

RESPONDENTS:

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1. **RAJESH, S/O.KUMARAN, RESIDING AT**
   KELANTHARA HOUSE, JANATHA ROAD, WARD NO.11,
   ALWAYE.

2. **PHILIP JOSEPH,REJI BROTHERS,**
   MOTOR SERVICE, RESIDING AT VALIYAVEETTIL HOUSE,
   NAZRETH ROAD, ALWAYE.

3. **THE ORIENTAL INSURANCE COMPANY LIMITED,**
   RAILWAY STATION ROAD, ALWAYE.

BY ADV. SRI.C.J.JOY,
SRI.MATHEWS JACOB (SR.),
SRI.P.JACOB MATHEW.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.19433/2006-L:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE CERTIFICATE DTD. 20/04/1992.

EXT.P.2: COPY OF THE APPLICATION DTD. 08/05/2001.

EXT.P.3: COPY OF THE ORDER IN I.A. NO. 2728/2001 DTD. 19/09/2005.

EXT.P.4: COPY OF THE ORDER IN I.A. NO. 2729/2001 DTD. 19/09/2005.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

M.N. KRISHNAN, J.

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W.P.C. NO. 19433 OF 2006

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Dated this the 19th day of October, 2007.

J U D G M E N T

This writ petition is filed seeing to set aside Ext.P3 and P4 orders. The writ petitioner is the claimant in OP(MV) 1136/90. She has filed an application for compensation which has been dismissed for default. With a delay of 1976 days she has filed an application for restoration of the MV (OP). The Court below was dissatisfied with the averments for the reason that really no proper reason was given for condoning the delay. One cannot find fault with the the Motor Accidents Claims Tribunal but at the same time in a personal injury case if a person has sustained serious injuries and due to poverty or other circumstances one is not able to prosecute the matter it is not proper to throw out the claim on technical ground of limitation. Especially, under the present Motor Vehicles Act no period of limitation is prescribed at all for filing the application. So taking into

consideration the intention of legislature and the broad principles of natural justice, I am inclined to grant an opportunity to the petitioner to conduct the case on merits. Therefore, the delay is condoned and the OP(MV) is directed to be restored. But I make it clear that being the OP of the year 1990 and there had been considerable delay in prosecuting the matter, the question of awarding interest during the period when it was dismissed for default till today, i.e., when it is restored, is a matter that the Court has to seriously take into consideration because such a discretion is vested under Section 171 of the M.V. Act. Parties are directed to appear before the Court below on 27.11.07 and being a matter of 1990, the matter be disposed of within a time limit of three months from that day.

M.N. KRISHNAN, JUDGE.

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